REMARKS

Claim 1 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for use of the terms "audio signal/control signal decoder unit." Applicant points out that an "audio signal to control signal decoder unit" is recited on page 3, lines 24–25 of the specification. With reference to the example embodiment shown in FIGS. 1 and 2, an "audio signal/control signal decoder unit 9" is described on page 10 at lines 16–17. Further, these terms are used numerous times throughout the specification. Therefore, Applicants respectfully submit that the claim language is sufficiently definite. Accordingly, Applicants respectfully request that the rejection be withdrawn.

Claims 1–6 and 8–13 were rejected under 35 U.S.C. 103(a) over U.S. Patent No. 5,319,716 to McGreevy in view of U.S. Patent No. 4,972,439 to Kuznicki et al. For the following reasons, the rejection is respectfully traversed.

Regarding claim 1, neither McGreevy nor Kuznicki, nor a combination thereof, teaches or suggests a "*decoder unit generating a control signal...in response to an encoded audio signal*," and "a control signal...*controlling at least one of a frequency band and of a power level of said signal to be transmitted*" as required. McGreevy relates to a CD player that transmits to an automobile FM radio. The transmission frequency and output power are selectable. As acknowledged by the Examiner, McGreevy does not teach a decoder unit that generates a control signal in response to an audio signal for controlling the transmission frequency band or the transmission power level. The examiner cites Kuznicki for this teaching.

First, Applicants submit that the compressor circuits 10 and 12 of McGreevy do amount to a teaching of a decoder unit generating a control signal in response to an encoded audio signal, as required by claim 1. The Examiner states that "one synonym of decode is to alter or change

and compressor serves to alter the signal." Applicant respectfully submits that in the context of claim 1, a decoders unit cannot be interpreted that broadly. Claim 1 explicitly requires a decoder unit *generating a control signal* in response to an *encoded* audio signal. The compressor circuit (10, 12) of McGreevy is provided to improve the signal-to-noise characteristics of the FM transmitter. There is no teaching in McGreevy that an audio signal is *encoded* in some way, or that the compressor circuit (10, 12) somehow acts as a *decoder* to generate a control signal from the audio signal, as required by claim 1. The mere fact that the compressor serves to alter an audio signal does not satisfy all of the limitations of claim 1 for which it has been cited, namely "generating a control signal...in response to an audio signal."

Second, Applicants submit that neither McGreevy nor Kuznicki teaches or suggests a control signal encoded in an *audio signal,* as required. Specifically, as explained above, McGreevy does not teach a control signal encoded in an audio signal. Kuznicki teaches encoded numeric or alphanumeric messages in a paging system and does not teach or suggest an audio signal. Therefore, even if the teachings of McGreevy and Kuznicki were combined, the resulting combination would not teach or suggest such a control signal encoded in an audio signal, as in claim 1.

For the above reasons, every limitation of claim 1 is not taught or suggest by McGreevy in view of Kuznicki.

Further, Applicants respectfully submit that one of ordinary skill in the pertinent art would not find any motivation or suggestion *in the prior art* modify the teachings of McGreevy based on the teachings of Kuznicki. The prior art does not recognize the possibility of controlling the frequency band or power level based on a control signal encoded in an encoded audio signal. Rather, this technique is first recognized in Applicants' own disclosure. Thus, the

combination of McGreevy and Kuznicki can only result from a hindsight reconstruction of Applicants' own disclosure. Moreover, one seeking to use the audio signal of McGreevy to control the frequency band or power level would not look to the teachings of Kuznicki, since Kuznicki does not mention decoding audio signals. Therefore, based on the prior art of record, there not sufficient motivation or suggestion to form a *prima facie* case of obviousness.

For at least the above reasons, claim 1 and its dependent claims 2–6 and 8–13 are patentable over the prior art of record.

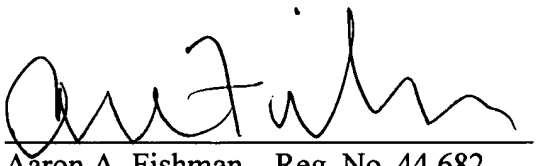
Claim 7 was rejected under 35 U.S.C. 103(a) over McGreevy in view of Kuznicki and in further view of U.S. Patent No. 6,778,814 to Koike. For the following reasons, the rejection is respectfully traversed.

Claim 7 depends from claim 1 and therefore necessarily includes all of the limitations of claim 1. For the above-described reasons, claim 1 is not rendered obvious by McGreevy in view of Kuznicki. Further, Koike does not teach or suggest the limitations of which the other references are deficient, namely controlling the frequency band or power level based on a control signal encoded in an encoded audio signal. Therefore, even McGreevy, Kuznicki and Koike were combined, every limitation of the claim would not be taught or suggested as required.

In light of the foregoing, it is respectfully submitted that the present application is in condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 33904.

Respectfully submitted,
PEARNE & GORDON, LLP

By: 
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